

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Before the Board of Patent Appeals and Interferences

In re the Application

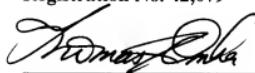
Inventor : D.A. Bell
Application No. : 10/528,678
Filed : March 21, 2005
For : IMAGE RECOGNITION

APPEAL BRIEF

On Appeal from Group Art Unit 2436

Date: April 9, 2009

Daniel Piotrowski
Registration No. 42,079



By: Thomas J. Onka
Attorney for Applicant
Registration No. 42,053

TABLE OF CONTENTS

	<u>Page</u>
I. REAL PARTY IN INTEREST.....	3
II. RELATED APPEALS AND INTERFERENCES.....	3
III. STATUS OF CLAIMS.....	3
IV. STATUS OF AMENDMENTS.....	3
V. SUMMARY OF CLAIMED SUBJECT MATTER.....	4
VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL.....	7
VII. ARGUMENT.....	7
VIII. CONCLUSION	11
IX. CLAIMS APPENDIX.....	12
X. EVIDENCE APPENDIX.....	18
XI. RELATED PROCEEDINGS APPENDIX.....	19

I. REAL PARTY IN INTEREST

The real party in interest is the assignee of the present application, Koninklijke Philips Electronics N.V., and not the party named in the above caption.

II. RELATED APPEALS AND INTERFERENCES

With regard to identifying by number and filing date all other appeals or interferences known to Appellant which will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal, Appellant is not aware of any such appeals or interferences.

III. STATUS OF CLAIMS

Claims 1-18 have been presented for examination. Claims 1-10, 12 and 14-20 are pending, stand finally rejected, and form the subject matter of the present appeal. Claims 11 and 13 have been cancelled.

IV. STATUS OF AMENDMENTS

This appeal is in response to an Office Action, dated May 8, 2008 and a Final Office Action, dated November 13, 2008. Claims 1-10, 12, 14 and 15 stand rejected under 35 USC 103(b) as being unpatentable over (U.S. Patent 6038333) in view of Wang2 (U.S. Patent No. 6035055), in view of Platt (US20020047798) and in further view of Sheridan (U.S. Patent No. 5760917) and claims 16-20 stand rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Wang in view of Sheridan and in further view of Willins (U.S. Patent No. 6990587). On January 16, 2009, an Advisory Action was entered into the record. The Advisory Action stated that the Amendment after final

filed on January 13, 2008, did not place the application in condition for allowance. In response, a Notice of Appeal was filed on February 13, 2009.

V. **SUMMARY OF CLAIMED SUBJECT MATTER**

The instant application includes independent claims 1, 10, 14 and 15. Claim 1 recites an apparatus for obtaining personal information related to a target person, comprising a user device comprising an image acquisition device for capturing an image of a target person, a database of stored image data items each relating to one of a plurality of candidate persons, each image data item being associated with stored personal data relating to the respective candidate person, a search engine for matching the captured image of the target person to a candidate person image data item and retrieving the personal data relating thereto, see page 2, lines 11 – 20, Figs. 1-3, wherein a search is limited to candidate person image data items that relate to further user devices that are in the same geographical area as the user device, see page 15, lines 5 –11, an output device for presenting, to a user, the personal data relating to the target person, and control means, operable by each candidate person, to control third party access to the stored personal data relating to the candidate person, see page 2, lines 20 – 24, Figs. 1-3).

Independent claim 17 recites a portable device for obtaining personal information related to a target person, comprising an image acquisition device for capturing an image

of a target person, means for accessing a remote database of stored image data items each of relating to one of a plurality of candidate persons, each image data item being associated with personal data relating to the respective candidate person, means for retrieving the personal data relating to a candidate person for which the captured image data of the target person matches the stored image data item of the candidate person, an output device for presenting, to a user, the retrieved personal data relating to the target person, and control means to control third party access to the database of personal data relating to a candidate person, wherein the means for accessing and the means for retrieving include a wireless communication device that is adapted to communicate with a plurality of further portable devices, the further portable devices together forming the remote database; and wherein the range of the wireless communication device limits the further portable devices that form the remote database to the geographical area of the portable device. (see page 3, lines 11 – 25, Figs. 1-3; page 15, lines 5 –11).

Independent claim 14 recites a system for providing personal information related to a target person, comprising a database of stored image data items each relating to one of a plurality of candidate persons, each image data item being associated with personal data relating to the respective candidate person, means for receiving, from a remote user device including an image acquisition device, a captured image of a target person, a search engine for matching the captured image of the target person to a candidate person image data item and retrieving the personal data relating thereto, wherein a search is limited to candidate person image data items that relate to further user devices that are in the same geographical area as the remote user device, means for transmitting, to a remote

output device, the personal data relating to the target person, and control means, operable by each candidate person, to control third party access to the stored personal data relating to the candidate person. (see page 4, lines 11 – 24, Figs. 1-3; page 15, lines 5 – 11).

Independent claim 14 recites a method of obtaining information related to a target person, comprising the steps of capturing an image of a target person, the image captured by a user device including an image acquisition device, supplying image data from the captured image to a database of stored image data items each relating to one of a plurality of candidate persons, each image data item being associated with personal data relating to the respective candidate person, searching the database to match the captured image of the target person with a candidate person image data item and retrieving the personal data relating thereto, wherein a search is limited to candidate person image data items that relate to further user devices that are in the same geographical area as the user device, outputting the personal data relating to the target person, and maintaining the database by enabling control, by each candidate person, of third party access to the personal data relating to that candidate person. (see page 4, line 29 – page 5, line 11, Figs. 1-3; page 15, lines 5 – 11).

Claims 2-9, 12 and 16-20 ultimately depend from one of the independent above claims and recite further aspects of the invention claimed.

VI. GROUNDS FOR REJECTION TO BE REVIEWED ON APPEAL

The matter at issue on appeal is:

(1) Whether claims 1-10, 12, 14 and 15 are invalidly rejected under 35 U.S.C. 103(a) as being over Wang (U.S. Patent 6038333) in view of Wang2 (U.S. Patent No. 6035055), in view of Platt (US20020047798) and in further view of Sheridan (U.S. Patent No. 5760917); and whether claims 16-20 are invalidly rejected under 35 USC 103(a) as being unpatentable over Wang in view of Sheridan and in further view of Willins (U.S. Patent No. 6990587).

VII. ARGUMENT

(1) Rejection of independent claims 1, 10, 14 and 15

Appellants respectfully submit that the rejection of claims 1-10, 12, 14 and 15 under 35 U.S.C. 103(a) as being unpatentable over Wang (U.S. Patent 6038333) in view of Wang2 (U.S. Patent No. 6035055), in view of Platt (US20020047798) and in further view of Sheridan (U.S. Patent No. 5760917) is in error as the references fail to show all of the limitations recited in the independent claims.

Appellants respectfully submit that the pending claims are patentable for at least the following reasons. Independent claim 1 recites the limitations of "*A user device comprising* an image acquisition device... a search engine for matching the captured

image of the target person to a candidate person image data item and retrieving the personal data relating thereto, *wherein the search is limited to candidate person image data items that relate to further user devices that are in the same geographical area as the user device...*” The Final Office Action indicates these limitations are shown in Platt in page 2, paragraph 0024. Applicants respectfully disagree. In this section Platt teaches that a user can provide a search query requesting images that relate to a specific geographical location or vicinity. Thus, in Platt a user inputs a location and receives images in that location. Nothing in Platt teaches that the search is limited to candidate person image data items that relate to further user devices that are in the same geographical area as the user device. The Advisory Action indicates that Wang2 distinguishes other user devices in the same geographical area as the user device (Wang2 col. 8, lines 25-34. Applicants respectfully disagree. Wang2 in this section teaches there may be a number of search and retrieval engines located in one of the data service systems 10. “When this is the case, the search engine 104 allows retrieval of the pixel data of the similar images stored in the local image database of the image database 103 while allowing the retrieval of only the content data of the similar images stored in the external image databases of the image database 103 into the local data service system.” However this does not teach *wherein the search is limited to candidate person image data items that relate to further user devices that are in the same geographical area as the user device...*, as claimed in the present invention.

Independent claim 10, 14, and 15 recite similar limitations.

Still further, independent claim 10 recites the limitations of “*...wherein the means for accessing and the means for retrieving include a wireless communication device that is adapted to communicate with a plurality of further portable devices, the further portable devices together forming the remote database; and*

wherein the range of the wireless communication device limits the further portable devices that form the remote database to the geographical area of the portable device.”

The Final Office Action indicates these limitations are shown in Sheridan in col. 3, lines 42-50 and col. 9, lines 1-8. Applicants respectfully disagree. In col. 3, lines 42-50, Sheridan describes the term ‘communication’ e.g. as a transmission of a signal... via various means including satellite. In col. 9, lines 1-8 Sheridan describes a Hub station 20 having means for communicating stored image set signal to an of a plurality of terminal 40A, 40B, 40C to 40N connected the hub 20. Nothing in Sheridan and in particular either of these cited sections teaches “*wherein the means for accessing and the means for retrieving include a wireless communication device that is adapted to communicate with a plurality of further portable devices, the further portable devices together forming the remote database.*” The Advisory Action indicates that that the remote means at least in another building and that the communication means includes non-wired links... and that the terminals are all described as remote terminals (Sheridan col. 2, lines 46-52). However, applicants can find nothing in Sheridan that teaches the limitation of “*the*

further portable devices together forming the remote database, and wherein the range of the wireless communication device limits the further portable devices that form the remote database to the geographical area of the portable device."

Next, it is not seen how the inventions of Wang, Wang2, Platt and Sheridan provide the motivation to combine as asserted in the Final Office Action, without improper hindsight by "use[ing] the claimed invention itself as a blueprint for piecing together elements in the prior art to defeat the patentability of the claimed invention," see *In Re Denis Rouffet*, 47 USPQ.2d 1453, 1457-58 (Fed. Cir. 1998). No motivation has been provided by the Office Action to show reasons that the skilled artisan, confronted with the same problems as the inventor would select the elements from the cited prior art references for combination in the manner claimed, see *Id.*

Having shown that Wang, Wang2, Platt and Sheridan, alone or in combination, fail to disclose each and every element claimed, applicant submits that the reason for the Examiner's rejection of claims 1, 10, 14, and 15 has been overcome and can no longer be sustained. Applicant respectfully requests reconsideration, withdrawal of the rejection and allowance of claims 1, 10, 14, and 15.

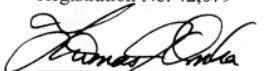
In the Office Action, claims 16-20 stand rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Wang in view of Sheridan and in further view of Willins (U.S. Patent No. 6990587).

With regard to the dependent claims 2-9, 12 and 16-20, these claims ultimately depend from one of the independent claims, which have been shown to be allowable in view of the cited references. Accordingly, claims 2-9, 12 and 16-20 are also allowable by virtue of their dependence from an allowable base claim.

VIII. CONCLUSION

In view of the above analysis, it is respectfully submitted that the referred to references fails to render obvious the subject matter of any of the present claims. Therefore, reversal of all outstanding grounds of rejection is respectfully solicited.

Respectfully submitted,
Daniel Piotrowski
Registration No. 42,079



By: Thomas J. Onka
Attorney for Applicant
Registration No. 42,053

Date: April 9, 2009

VIII. CLAIMS APPENDIX

1. (Previously Presented) Apparatus for obtaining personal information related to a target person, comprising:

a user device comprising an image acquisition device for capturing an image of a target person;

a database of stored image data items each relating to one of a plurality of candidate persons, each image data item being associated with stored personal data relating to the respective candidate person;

a search engine for matching the captured image of the target person to a candidate person image data item and retrieving the personal data relating thereto, wherein a search is limited to candidate person image data items that relate to further user devices that are in the same geographical area as the user device;

an output device for presenting, to a user, the personal data relating to the target person; and

control means, operable by each candidate person, to control third party access to the stored personal data relating to the candidate person.

2. (Previously Presented) The apparatus of claim 1 in which the database is a distributed database, the candidate persons each having a portable device for storing their own image data items and personal data which may be accessed by the search engine using a wireless communication channel.

3. (Previously Presented) The apparatus of claim 2 in which the control means comprises an access control function provided on each portable device.

4. (Previously Presented) The apparatus of claim 1 in which the database includes a central repository accessible to a plurality of remote portable devices using a wireless communication channel.

5. (Previously Presented) The apparatus of claim 4 in which the control means is a distributed control means, the candidate persons each having a device for storing their own image data items and personal data onto the database and determining third party access rights thereto.

6. (Previously Presented) The portable electronic device comprising the image acquisition device, output device and control means of claim 1 integrated into said portable electronic device.

7. (Original) The apparatus of claim 6 in which the portable electronic device is any of a personal digital assistant, personal computer or mobile telephony device.

8. (Previously Presented) The apparatus of claim 6 in which the portable electronic device further includes communication means for communication with a remotely located database and the search engine.

9. (Previously Presented) The apparatus of claim 1 in which the output device is a display device for displaying the personal data relating to the target person.

10. (Previously Presented) A portable device for obtaining personal information related to a target person, comprising:

an image acquisition device for capturing an image of a target person;

means for accessing a remote database of stored image data items each of relating to one of a plurality of candidate persons, each image data item being associated with personal data relating to the respective candidate person;

means for retrieving the personal data relating to a candidate person for which the captured image data of the target person matches the stored image data item of the candidate person;

an output device for presenting, to a user, the retrieved personal data relating to the target person; and

control means to control third party access to the database of personal data relating to a candidate person;

wherein the means for accessing and the means for retrieving include a wireless communication device that is adapted to communicate with a plurality of further portable devices, the further portable devices together forming the remote database; and

wherein the range of the wireless communication device limits the further portable devices that form the remote database to the geographical area of the portable device.

11. Cancelled.

12. (Original) A personal digital assistant, personal computer or mobile telephony device having integrated therein the portable device of claim 10.

13. Cancelled.

14. (Previously Presented) A system for providing personal information related to a target person, comprising:

a database of stored image data items each relating to one of a plurality of candidate persons, each image data item being associated with personal data relating to the respective candidate person;

means for receiving, from a remote user device including an image acquisition device, a captured image of a target person;

a search engine for matching the captured image of the target person to a candidate person image data item and retrieving the personal data relating thereto, wherein a search is limited to candidate person image data items that relate to further user devices that are in the same geographical area as the remote user device;

means for transmitting, to a remote output device, the personal data relating to the target person; and

control means, operable by each candidate person, to control third party access to the stored personal data relating to the candidate person.

15. (Previously Presented) A method of obtaining information related to a target person, comprising the steps of:

capturing an image of a target person, the image captured by a user device including an image acquisition device;

supplying image data from the captured image to a database of stored image data items each relating to one of a plurality of candidate persons, each image data item being associated with personal data relating to the respective candidate person;

searching the database to match the captured image of the target person with a candidate person image data item and retrieving the personal data relating thereto, wherein a search is limited to candidate person image data items that relate to further user devices that are in the same geographical area as the user device;

outputting the personal data relating to the target person; and

maintaining the database by enabling control, by each candidate person, of third party access to the personal data relating to that candidate person.

16. (Previously Presented) The method according to claim 15 and further comprising of the step of attaching a digital signature to said supplied image data.

17. (Previously Presented) The method according to claim 16 wherein the step of outputting the personal data will not occur unless the attached digital signature is established to be valid and authentic.

18. (Previously Presented) The method according to claim 15 wherein said step of outputting personal data involves outputting encrypted personal data.

19. (Previously Presented) A computer program product, comprising a computer readable medium having thereon computer program code means adapted, when said program is loaded onto a computing apparatus, to make the computing apparatus form the device of claim 10.

20. (Previously Presented) A computer program, distributable by electronic data transmission, comprising computer program code means adapted, when said program is loaded onto a computing apparatus, to make the computing apparatus form the device of claim 10.

IX. EVIDENCE APPENDIX

The appellant is not aware of any evidence.

X. RELATED PROCEEDING APPENDIX

The appellant is unaware of any related proceeding.